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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/636,731	08/10/2000	Jerry Thomas Moore	9283/001	9120

24283 7590 11/06/2002

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EXAMINER

ROWAN, KURT C

ART UNIT PAPER NUMBER

3643

DATE MAILED: 11/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/636,731

Applicant(s)  
MOORE

Examiner  
KURT ROWAN

Art Unit  
3643



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Aug 12, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 23-25 is/are pending in the application.
- 4a) Of the above, claim(s) 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 23-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

Art Unit: 3643

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 12, 2002 has been entered.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of fly boxes must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 U.S.C. § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

Art Unit: 3643

pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-18, 23-24 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original specification does not support the base piece covering less than 50% of the chest of a normal adult.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-18, 23-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 1 recites the limitation "said plurality of fly boxes " in 11. It is improper to functionally claim the fly boxes and then positively claim them since it is not clear if the fly boxes are being claimed. Also, in regard to claim 1, the claim does not connect the structural elements together such as the hinge/fastener to the base and the harness.

8. Claim 3 recites the limitation "said fishing rod holder" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 6 recites the limitation "said fishing rod holder" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 3643

10. Claim 23 recites the limitation "said rod holding mechanism" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 24 recites the limitation "said rod holding mechanism" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 25 recites the limitation "said fly box" in line 5. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 U.S.C. § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3643

14. Claims 1-2, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wimler. The patent to Wimler shows a chest fly box system having base 6, a harness 7 that secures the base piece to the chest of a fisherman with the base resting on the front of the chest as shown in Figs. 1-2. The base covers less than 50% of the chest. Wimler discloses a hinge in column 1, lines 43-47 that also as a fastener to secure the fly box to the base piece and to permit movement of the fly box from a horizontal to a vertical position as shown in Figs. 1-2. The hinge/fastener can inherently releasably secure a fly box so that it can be accessed without removing it from the base piece. In reference to claim 1, Wimler shows all of the elements recited with the exception of the plurality of fly boxes. However, given one fly box it would have been obvious to employ more than one for multiplied effect. See *In re Harza*, 124 USPQ 378. In reference to claim 4, Wimler shows all of the dimensions recited.

15. Claims 3, 5-6, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wimler as applied to claim 1 above, and further in view of Hutton. The patents to Wimler and Hutton show chest fly boxes. Wimler has been discussed above and does not show a fishing rod holder. Hutton shows a fishing rod holder 142 mounted on the fly box support 102 and being configured to hold the fishing rod in a horizontal position. In reference to claims 3, 5, 6, it would have been obvious to provide Wimler with a fishing rod holder as shown by Hutton for the purpose of maintaining the rod while changing tackle such as re-rigging a broken fishing line as disclosed by Hutton in column 4, lines 8-11. In reference to claims 23-24, Hutton shows a bracket

Application/Control Number: 09/636,731

Art Unit: 3643

rod holding mechanism that can be considered as a U-shaped trough, but it would have been obvious to employ other configurations such as a clamp since the function is the same and no stated problem was solved. In reference to claim 25, the combination of Wimler as modified by Hutton shows all of the elements recited with the exception of the fly box support and the fishing rod holder being integrally made. Hutton does not disclose that they are integrally made, but it would have been obvious to integrally form the fly box support and the fishing rod holder. See *In re Larson et al.*, 144 USPQ 347.

#### *Allowable Subject Matter*

16. Claims 7-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if the rejections under 35 U.S.C. 112, first and second paragraphs are overcome.

#### *Conclusion*

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Volmer, Mavrakis, and Barringer show other fishing rod supports and fly boxes.

Art Unit: 3643

18.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KURT ROWAN whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink that reads "Kurt Rowan". The signature is written in a cursive, flowing style.

KURT ROWAN

PRIMARY EXAMINER

ART UNIT 3643

November 3, 2002